IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

DISTRICT:

CIVIL APPLICATION NO. 3754 OF 2006

IN

FIRST APPEAL NO. 379 OF 2005

Office Notes,Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's Orders

Mr. P.B.Killedar for the Applicants.

Mr. Uday Warunjikar for Respondent No.1.

Mr. Yuvraj Choudhary i/by Mr. V. S. Talkute for Respondent No.2.

CORAM: S.B.DESHMUKH, J.

DATE : 8TH SEPTEMBER 2006

P.C.:

Heard learned Counsel for the parties. Perused the order passed by this Court in Civil Application No. 1666 of 2005.

2. I have perused the decree passed by the trial Court in Special Civil Suit No. 15 of 2003 on 4th October, 2004. Really speaking, it is a money decree passed in favour of the

original plaintiff. Learned Counsel for respondent no.1, submits, that as per the direction of this Court, he has deposited an amount of Rs.1,18,000/- in the trial Court. The order passed by this Court, therefore, is complied with.

3. There is no impediment in confirming the ad-interim relief, earlier granted by this Court in Civil Application No. 1666 of 2005. It is also noted that this Court while passing the earlier order on 4th April, 2006, left open the question regarding disbursement or investment of the amount deposited by respondent no.1 in the trial Court to the extent of Rs.1,18,000/-. The applicants, by this application, are seeking withdrawal of the entire decretal amount from the trial Court. I have also perused the reply affidavit filed by the respondents.

4. Learned Counsel for the applicants is ready to furnish the bank guarantee

of a nationalised bank, while seeking withdrawal of Rs.1,18,000/- from the trial Court. In the circumstances, the respondent no.1 / appellant in this appeal is being protected.

5. In this view of the matter, the ad-interim relief granted earlier by this Court in Civil Application No. 1660 of 2005 is made absolute till the disposal of appeal.

6. The present Civil Application No. 3754 of 2006 is partly allowed. The applicants are permitted to withdraw the amount of Rs.1,18,000/- from the trial Court on furnishing bank guarantee of any nationalised bank to the satisfaction of the trial Court.

7. All Authorities concerned to act on an authenticated copy of this Order.

Sd/-

(S.B.DESHMUKH, J.)